

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 ADAN JOE NIETO,

12 Petitioner,

13 v.

14 ELDON VAIL,

15 Respondent.
16

Case No. C09-5250 RBL/KLS

REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED
IN FORMA PAUPERIS

Noted for: June 5, 2009

17 This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. §
18 636(b)(1) and Local MJR 3 and 4. Petitioner is an inmate at the Coyote Ridge Corrections Center in
19 Connell, Washington. He filed an application to proceed *in forma pauperis* (Dkt. # 3), but has paid the
20 \$5.00 filing fee. Accordingly, the Court should deny the application.

21 **DISCUSSION**

22 A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a
23 proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in
24 denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963),
25 *cert. denied*, 375 U.S. 845 (1963).

26 On May 1, 2009, the Clerk received Petitioner's application to proceed *in forma pauperis*. Dkt.
27 3. On May 11, 2009, Petitioner paid the \$5.00 filing fee. Because he has paid the filing fee, Petitioner's
28 application to proceed *in forma pauperis* is moot.

1 **CONCLUSION**

2 Because Petitioner has paid the filing fee, the undersigned recommends that the Court deny his
3 application to proceed *in forma pauperis*.

4 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed.
5 R. Civ. P."), Petitioner shall have ten (10) days from service of this Report and Recommendation to file
6 written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of
7 those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time
8 limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **June 5, 2009**, as
9 noted in the caption.

10
11 DATED this 19th day of May, 2009.

12
13
14 
15 Karen L. Strombom
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26
27
28